

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW~~ ACT

Statutory Authority: §3.1-828.4 of the Code of Virginia (1950), as amended.

This regulation supercedes Rules and Regulations for the Enforcement of the Virginia  
Commercial Feed Law, amended February 26, 1986.

2VAC5-360-10. Definitions.

A. Words used in the singular form in this chapter shall include the plural, and vice versa, as appropriate.

B. All terms used in this chapter shall have the meaning set forth for such in the ~~law~~ Act. In addition, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means Chapter 28.1 (§3.1-828.1 et seq.) of Title 3.1 of the code of Virginia, hereinafter known as the Virginia Commercial Feed Act.

"Animal" means any animate being which is not human.

"Adulteration" means a commercial feed is adulterated if:

1. Enough of any harmful or non-nutritive ingredient has been added to endanger animal health when used according to labeling directions.
2. Any part of an essential component has been omitted, removed, or replaced with an inferior substance.
3. The composition or quality of the feed fails to conform to its representation in the labeling.
4. It was prepared or held under unsanitary conditions.

2 VAC 5-360 ~~RULES AND~~ REGULATIONS FOR THE ENFORCEMENT OF THE  
VIRGINIA COMMERCIAL FEED ~~LAW~~ ACT

5. It contains any filthy, putrid, decomposed, tainted, unsound or unwholesome substance.

6. Its container is composed of any substance which may cause the feed to endanger animal health.

"Board" means the Virginia Board of Agriculture and Consumer Services.

"Brand" means the term, design, or trademark and other specific designation under which an individual commercial feed is distributed in Virginia.

"Canned animal food" means all materials packed in any airtight container with a moisture content of 70% or more which are distributed for use as food for animals other than humans.

"Commercial feed" means all mixed or unmixed feed including concentrates, supplements, molasses, minerals, mineral mixtures, and all other materials used for their nutritional or physical properties for feeding to animals except those materials exempted by ~~Law~~ the Act.

"Commissioner" means the Virginia Commissioner of Agriculture and Consumer Services or his delegated assistant or agent.

"Distribute" means to offer or expose for sale, sell, warehouse, exchange, or ~~or~~ barter, furnish or otherwise supply.

"Distributor" means a person who ~~offers for sale, sells, or barter~~ distributes commercial feeds.

"Feed ingredient" means each of the constituent materials making up a commercial feed.

"Inert mineral matter" means mineral matter that has no nutritional value.

"Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed. The invoice or delivery slip with which a commercial feed is distributed in bulk is the label.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

"Labeling" means any written, printed, graphic, electronic, or advertising information pertaining to the commercial feed which is:

1. On the commercial feed or any of its containers,
2. On the invoice or delivery slip, ~~or~~
3. Accompanying the commercial feed at any time, or
4. Otherwise provided to the consumer.

~~"Law" means Chapter 28.1 (3.1-828.1 et seq.) of Title 3.1 of the Code of Virginia, hereinafter known as the Virginia Commercial Feed Law.~~

~~"Materials of little or no feeding value" means organic or inorganic materials which, in the proportions present, are recognized by nutritionists as having little or no nutritional value.~~

"Medicated feed" means a product obtained by mixing a drug, as defined in §3.1-828.2 of the Code of Virginia, and a commercial feed. It is subject to all provisions of the Virginia Commercial Feed ~~Law. Act.~~

"Misbranding" means a commercial feed is misbranded if:

1. The label does not include:
  - a. The name and principal address of the manufacturer, distributor, or person responsible for placing the commercial feed on the market.
  - b. The name, brand or trademark under which the commercial feed is sold.
  - c. An accurate quantity statement ~~of the net weight~~ of the contents.
  - d. An accurate statement of the minimum percentage of crude protein.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

- e. An accurate statement of the minimum percentage of crude fat.
  - f. An accurate statement of the maximum percentage of crude fiber.
  - g. An accurate statement of the maximum percentage of moisture for all dog and cat foods.
  - ~~g~~ h. The English name of each ingredient or ~~the statement, "Ingredients as filed with the State,"~~  
~~in lieu of the list of ingredients~~ conform to the requirements of Section 2VAC5-360-40 of this  
regulation.
  - ~~h~~ i. Adequate warnings against use under normal or pathological conditions where its use may  
endanger animal health, or against unsafe use or application as necessary for the protection of  
animals.
2. Labeling is false or misleading in any particular.
  3. It is distributed under the name of another commercial feed.
  4. Its container is so made, formed or filled as to be deceptive or misleading as to the amount of  
contents.
  5. Its labeling bears any reference to registration or license under the ~~Law~~. Act.
  6. It is represented as containing a feed ingredient, unless such feed ingredient conforms to the  
definition prescribed by regulation of the board.
  7. Any word, statement or other information required by ~~Law~~ Act is not prominently placed upon  
the label so conspicuously (as compared with other words, statements, designs, or devices in the  
labeling) and in such terms as to make it likely to be read and understood by the ordinary  
individual under customary conditions of purchase and use.

2 VAC 5-360 ~~RULES AND~~ REGULATIONS FOR THE ENFORCEMENT OF THE  
VIRGINIA COMMERCIAL FEED ~~LAW~~ ACT

"Official sample" means any sample of feed taken by the commissioner and designated as "Official" by the commissioner.

"Person" means an individual, partnership, association, corporation, firm, agent or authorized group of individuals whether incorporated or not.

"Prohibited noxious-weed seeds" means the seeds of perennial weeds which not only reproduce by seed but which also spread by underground roots and stems; and which, when established, are highly destructive and are not controlled in the Commonwealth by commonly used cultural practices. These include but are not limited to the seeds of Balloonvine-Cardiospermum halicacabum, Field bindweed-*Convolvulus arvensis*, Quackgrass-*Agropyron repens*, Canada thistle-*Cirsium arvense*, Johnson grass-*Sorghum spp.*, perennial, ~~and~~ Plumeless thistle, which includes Musk thistle and Curled thistle *Carduus spp.*, Serrated tussock-Nassella trichotoma, and Sicklepod-Senna obtusifolia.

"Restricted noxious-weed seeds" means the seeds of weeds which are very objectionable in fields, lawns and gardens in this Commonwealth and are difficult to control by commonly used cultural practices. These include but are not limited to seeds of Dodder-*Cuscuta spp.*, Bermudagrass-*Cynodon dactylon*, Wild onion bulblets, Wild garlic bulblets-*Allium spp.*, Wild mustard-*Brassica spp.*, Giant foxtail-*Setaia faberia*, radish-*Raphanus*, and Annual bluegrass-*Poa annua*.

"Sell" means sales, barter, or exchange.

"Ton" means a net weight of 2,000 pounds, avoirdupois.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW~~ ACT

2VAC5-360-20. Brand names.

A. The name of a brand shall not tend to mislead the purchaser with respect to any quality of the feed. If the brand name indicates that the feed is made for a specific use, the character of the feed shall conform to that use. A mixture labeled "Dairy Feed," for example shall be adapted for that purpose.

B. A brand name shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients. A distinctive name shall not represent any component of a mixture unless all components are included in the name. Provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name if the ingredient or combination or ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand name is not otherwise false or misleading.

C. The word "vitamin" or a contraction thereof, or any word suggesting vitamin, may be used in the brand name of a feed only in the case of a feed represented solely to be a vitamin supplement, and which is labeled with the minimum vitamin content guaranteed as specified in subsection B of 2VAC5-360-30.

D. The term "Mineralized" shall not be used in the brand name of a feed except for "Trace Mineralized Salt." When so used, the product shall contain significant amounts of trace minerals which are recognized as essential for the nutrition of animals. The mineral compound source of each mineral except salt (NaCl) shall be stated in the ingredient statement.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

E. When the brand name carries a percentage value, it shall be understood to signify minimum crude protein content. If any other percentage values are used in brand names, they shall be followed by the proper description.

F. ~~If the brand name of a feed includes the word "candy," "sweet," or some comparable term, the product shall contain a minimum of 5.0% total sugars, calculated as invert sugar. If molasses is used, the type shall be declared~~ The word "protein" shall not be permitted in the brand name of a feed that contains added non-protein nitrogen.

G. ~~"Screenings." If screenings, either ground or unground, bolted or unbolted, are added to any unmixed by product feed, the brand shall be labeled clearly to indicate this fact. The word "Screenings" shall appear as part of the name or brand and shall be printed in the same size and face of type as the rest of the brand name~~ The term "meat" or "meat by-product" in a brand name shall be qualified in the brand name to designate the animal from which the meat or meat by-product is derived unless the meat or meat by-product is made from cattle, swine, sheep or goats.

H. ~~"Labels for Wheat Bran and Wheat Shorts Containing Screenings." The admixture of any proportion of wheat screenings requires a declaration to that effect in the brand name, which shall be printed in the same size and type face as the rest of the brand name. In no case shall the admixture exceed mill run of screenings.~~

1. ~~Wheat Bran with Ground Wheat Screenings.~~

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

~~2. Wheat Shorts with Ground Wheat Screenings.~~ Single ingredient feeds shall have a brand name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials.

2VAC5-360-30. Expression of guarantees.

A. The sliding scale method of expressing guarantees (for example, "Protein 15-18%") is prohibited, except as specifically allowed in the ~~law Act~~ or in this chapter.

B. Vitamins, when guaranteed, shall be expressed in milligrams per pound of feed, except that:

1. Vitamin A shall be stated in ~~USP units~~ International Units per pound, except for precursors of Vitamin A.

2. Vitamin D, when used in products for poultry feeding, shall be expressed in International Chick Units.

3. Vitamin D for other uses shall be expressed in ~~USP units~~ International Units per pound.

4. Vitamin E shall be expressed ~~in USP or~~ International Units per pound of feed.

C. The common feed or mineral guarantees are not required for any product represented solely to be a vitamin supplement which is labeled with a minimum vitamin guarantee as specified in subsection D of 2VAC5-360-40.

D. ~~Calcium." When a minimum and maximum percent of calcium is guaranteed, the maximum percent of calcium shall not exceed by more than 20% the minimum percent of calcium.~~

~~(Example: Calcium minimum, 10%, maximum 12%) provided that in the event that the~~

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

~~minimum percent of calcium is 5.0% or less, the maximum percent of calcium may exceed the minimum by 1.0% of calcium. (Example: Calcium minimum 3.0%, maximum 4.0%)~~ When calcium, salt, and sodium guarantees are given in the guaranteed analysis such shall be stated and conform to the following:

1. When the minimum is below 2.5%, the maximum shall not exceed the minimum by more than 0.5 percentage point.
2. When the minimum is 2.5% but less than 5.0%, the maximum shall not exceed the minimum by more than one percentage point.
3. When the minimum is 5.0% or greater, the maximum shall not exceed the minimum by more than 20% of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

E. When ~~guaranteed~~ stated, guarantees for minimum and maximum total calcium, salt, and sodium; minimum potassium, magnesium, sulfur, phosphorus; and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater. All guaranteed minerals except salt (NaCl), shall be stated in terms of ~~percentage~~ of the element.

2VAC5-360-40. Ingredient statement.

A. The term "dehydrated" may precede the name of any product that has been artificially dried.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

B. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

C. ~~"Inert Mineral Matter and Charcoal." In the case of feeds containing inert grit, other added inert mineral matter or charcoal, the ingredient statement must include the kind and percentage of grit or other added inert mineral matter, charcoal, etc. In case the percentage of inert grit, other mineral matter or charcoal, separately or together, is 5.0% or more, the brand name shall also include the name and percent of such matter, such as "With . . . % Grit," "With . . . % Charcoal," and "With . . . % Charcoal and Bentonite," etc. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the Association of American Feed Control Officials; or the common or usual name for ingredients that do not have official definitions or that do not require definitions (example: corn).~~

D. No declaration of vitamin potency of a feed or feed supplement shall appear in the ingredient statement or any other part of the label, excepting that such statement is a guarantee of minimum vitamin potency of the entire product given in terms as specified in subsection B of 2VAC5-360-30.

2VAC5-360-50. Labeling.

A. The information required in §3.1-828.5 of the Code of Virginia, with the exception of the ~~net weight~~ quantity statement, shall appear in its entirety on one side of a label or on one side of the

2 VAC 5-360 ~~RULES AND~~ REGULATIONS FOR THE ENFORCEMENT OF THE  
VIRGINIA COMMERCIAL FEED ~~LAW~~ ACT

container. However, in case a tag is used, the directions for use and warnings against misuse may appear on the other side of the tag.

B. When ingredients are listed, the names of all feed ingredients shall be shown in letters or type of the same size.

C. When feeds carry label information in more than one position on the container, there shall be no variance with respect to name, ingredients, or guaranteed composition.

D. The term "Degermed" must precede the name of any product from which the germ has been wholly or partially removed.

E. All printed or written information attached to or packed with feed must conform in all respects to the information printed on the principal label.

F. Labeling which implies that added enzyme-bearing materials improve the utilization of a product is prohibited unless the claims are substantiated by scientific evidence.

G. The term "Bond Phosphate of Lime," "Bone Phosphate of Lime (BPL)," or "BPL" shall not be used in connection with the labeling of feed ingredients.

H. The label of a commercial feed, other than an individual ingredient or supplement with directions for further mixing, shall designate the species and may designate the animal class for which the feed is intended. For the purpose of this subsection, animal class may include, but is not limited to, weight range, sex, or age of the animal for which the feed is manufactured.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW~~ ACT

2VAC5-360-60. Minerals.

A. When the word "Iodized" is used in connection with a feed ingredient, the ingredient shall contain not less than 0.007% of iodine, uniformly distributed.

B. Phosphatic materials for feeding purposes shall be labeled with a guarantee of the minimum and maximum percentages of calcium (when present), the minimum percentage of phosphorous, and the maximum percentage of fluorine.

C. The fluorine content of any mineral or mineral mixture which is to be used directly for feeding of animals shall not exceed 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for ~~sheep~~ lambs; 0.45% for swine; and 0.60% for poultry.

D. Soft phosphate with collodial clay, rock phosphates, or other fluorine-bearing ingredients may be used only in such amounts that will not raise the flourine concentration of the ~~feed~~ total ration (exclusive or roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for ~~sheep~~ lambs; ~~0.014~~ 0.015% for swine; and ~~0.035~~ 0.03% for poultry.

E. Fluorine bearing ingredients may not be used in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that result in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED LAW ACT

2VAC5-360-70. Nonprotein nitrogen.

Urea, ammonium salts of carbonic and phosphoric acids, and ammoniated products defined by the Association of American Feed Control Officials are acceptable ingredients in ~~proprietary~~ commercial cattle, sheep, and goat feeds only. These materials shall be considered adulterants in ~~proprietary~~ commercial feeds for other animals and for birds. The maximum percentage of equivalent protein from nonprotein nitrogen shall appear immediately below the crude protein in the ~~chemical guarantees~~ guaranteed analysis; and the name of the substance supplying the nonprotein nitrogen shall appear in the ingredient list. If the equivalent protein from nonprotein nitrogen in a feed exceeds one-third of the total crude protein, or if more than 8.75% equivalent protein is from nonprotein nitrogen, the label shall ~~bear a statement of proper usage~~ contain adequate directions for use. The label shall also ~~bear~~ contain the following statement in conspicuous type:

WARNING: This feed should be used only in accordance with the directions furnished on the label.

2VAC5-360-80. Ingredients.

~~A. Commercial feed shall not be adulterated with any of the following materials: Chaff or Dust, Cocoa Meal, Moldy Grain, Dirt, Elevator Chaff, Flax Plant Refuse, Coconut Shell, Humus, Peat, Sand, Sawdust, Screening Refuse, Sphagnum Moss, Leather, or any other material of little or no feeding value.~~

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

~~B~~ A. Commercial feeds shall not be adulterated with any whole or viable prohibited noxious-weed seeds, nor with any whole or viable restricted noxious-weed seeds in amounts exceeding the limits as specified in 2VAC5-390-20.

B. Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

C. Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: Protease (Bacillus subtilis) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

D. Commercial feeds shall not contain soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents.

E. Sulfur dioxide, Sulfurous acid, and salts of Sulfurous acid shall not be used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
~~VIRGINIA COMMERCIAL FEED LAW ACT~~

2VAC5-360-90. Methods of sampling and analysis.

Where applicable, the ~~latest printed "Official Methods of Analysis" of the Association of Official Analytical Chemists, Incorporated, Official Methods of Analysis of AOAC International (2000), 17<sup>th</sup> edition~~ shall be used for the sampling and analysis of commercial feeds.

2VAC5-360-100. Definitions and standards.

The definitions, standards, and recommendations of the Association of American Feed Control Officials shall be followed in the administration of the ~~law Act~~, except where they conflict with the provision of, or with regulations promulgated under the ~~law Act~~.

~~2VAC5-360-110. Cancellation of registration and license.~~

~~The following causes are sufficient to justify the cancellation of a registration of commercial feed and of a license to manufacture or distribute commercial feed. However, no registration or license shall be cancelled until the registrant, manufacturer, or distributor has been given an opportunity for a hearing by the commissioner when:~~

- ~~1. The brand name of the feed is found to be misleading in any respect.~~
- ~~2. The feed is found to contain enough of a harmful ingredient to endanger animal health when fed according to labeling directions.~~
- ~~3. The ingredients are incorrectly stated on the label.~~
- ~~4. The analyses of samples establish the fact of misbranding or adulteration.~~

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

~~5. Labels on packages contain any statement, design, or device which tends to mislead the purchaser.~~

~~6. False, fraudulent, or misleading claims concerning the feed are made by any means.~~

~~2VAC5-360-120. Additives.~~

~~A. "Preservatives." No added preservative of any kind may be used in the manufacture of a feed until its use, and the condition of its use, has been approved by the commissioner.~~

~~B. "Artificial Color." No artificial color may be used in feeds unless the color has been shown to be harmless to animals, and has been approved by the Federal Food and Drug Administration. No material shall be used to enhance the natural color of a feed or feed ingredient to conceal inferiority.~~

~~2VAC5-360-130. Crude fiber standards.~~

~~Whenever crude fiber standards are designated in definitions of various grain or cereal products, such standards shall apply also if screenings are added.~~

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

~~2VAC5-360-140. Applications for registration of commercial feeds.~~

~~Applications for registration of commercial feeds shall be accompanied by two copies of the proposed label. A statement of claims made or to be made which differ from the label submitted shall be filed with the commissioner before use.~~

FORMS

~~Application For Registration of Medicated Feed, eff. 10/13/94.~~

~~Application For Registration of Commercial Feeds Sold in Individual Packages of Ten (10) Pounds or Less, eff. 10/13/94.~~

~~Application For Registration of Commercial Feeds Sold in Individual Packages of Ten (10) Pounds or Less (Canned Foods), eff. 10/13/94.~~

~~Application For Registration of Specialty Pet Foods Sold in Individual Packages of One (1) Pound or Less ONLY, eff. 10/13/94.~~

Application for Registration of Commercial Feeds and Animal Remedies, eff 12/99.

2 VAC 5-360 ~~RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE~~  
VIRGINIA COMMERCIAL FEED ~~LAW ACT~~

DOCUMENTS INCORPORATED BY REFERENCE

Official Publication of the Association of American Feed Control Officials, Inc., 2002.

Adopted by the Board of Agriculture and Consumer Services on September 26, 2003. This is a full, true and correctly dated regulation.

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Roy E. Seward, Secretary

Board of Agriculture and Consumer Services

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Date